In the High Court of Uttaranchal, at Nainital.

Criminal Misc. Application No. 290/2001

Prabhat Kumar S/o Late Maiku Ram
R/o 40, Chander Nagar
P.S. Kotwali, District Dehradun ....Applicant.

Versus

1- State of Uttaranchal
2- Rajendra S/o Nand Lal
R/o 40, Chandra Nagar,
P.S. Kotwali,
District Dehradun ----- Respondents.

Sri V.K. Bisht, learned counsel for the applicant.
Sri Lalit Verma, learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition U/S 482 Cr.P.C. has been filed by the applicant for quashing of the charge sheet submitted in case No. 2054/1999, U/Ss 325, 323, 504 I.P.C., pending before the Court of C.J.M. Dehradun.

2- Brief facts of the case are that the respondent No.2 lodged a report against the applicant and others stating therein that a litigation with regard to the partition of the landed property is pending before the court and on account of that litigation the respondent No.2 was assaulted by the accused persons including the petitioner due to which the respondent No.2 sustained injuries on his person.

4- The case was investigated by the police and subsequently charge sheet U/Ss 325, 323, 504 I.P.C. was filed before the court and the matter is pending before the court as criminal case No. 2054/1999.

5- Heard learned counsel for the petitioner, learned A.G.A. and perused the record.

5- The learned counsel for the petitioner has argued that the petitioner has also lodged a report against respondent No.2 and his report is on earlier point of time as case crime No. 361/1999, therefore, this case is nothing but an off-shoot of the case registered by the petitioner against respondent No.2.

6- I do not find any force in the argument advanced by the learned counsel for the petitioner as disputed question of fact is involved in the case and I am not supposed to act as a Trial Judge in order to deliver premature decision where the evidence is still incomplete and hazy and yet to be collected by the trial Judge. I am also not supposed to embark upon an enquiry with regard to the credibility of the evidence at this stage.

7- I do not find any abuse of process of Court.

8- The petition lacks merit and is liable to be dismissed.

9- Accordingly the petition is dismissed. The interim order dated 4-5-2001 stands vacated.

(B.C. Kandpal, J.)

Dated: 15-7-2006